

RECEIVED  
CENTRAL FAX CENTER

MAR 15 2005

GP140-04.UT

PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Linnen et al.	)	Group Art Unit: 1648
		)	
Serial No.:	10/688,489	)	
		)	
Filed:	October 16, 2003	)	
		)	
For:	Compositions and Methods for	)	
	Detecting West Nile Virus	)	
		)	
Examiner:	Zachariah Lucas	)	

**RESPONSE TO RESTRICTION REQUIREMENT**  
**AND**  
**PRELIMINARY AMENDMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In response to the Communication mailed from the Patent and Trademark Office on December 16, 2004, please consider the following.

An **Election in Response to Restriction Requirement** begins on page 2 of this paper.

**Amendments to the Claims** are reflected in the Listing of Claims which begins on page 3 of this paper.

**Remarks** begin on page 5 of this paper.

RECEIVED  
CENTRAL FAX CENTER

MAR 15 2005

FACSIMILE TRANSMISSION

The information contained in this transmission is privileged and confidential. It is intended only for the use of the individual or entity named below. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited.

If you have received this communication in error, please notify Gen-Probe immediately by telephone and return the original message to us at the below-indicated address via regular U.S. mail. Thank you.

**FROM:** Michael J. Gilly  
Gen-Probe Incorporated  
10210 Genetic Center Drive  
San Diego, California 92121  
Phone No. (858) 410-8657  
Facsimile No. (858) 410-8928

**TO:** Examiner: LUCAS, Zachariah  
Group 1648

U.S. Patent & Trademark Office

Facsimile No. (703) 872-9306

Number of pages (including this cover page): 11

In re Patent Application of:	)	Group Art Unit: 1648
	)	
LINNEN <i>et al.</i>	)	Examiner: LUCAS, Zachariah
	)	
Serial No. 10/688,489	)	Atty. Docket No. GP140-04.UT
	)	
Filed: October 16, 2003	)	Confirmation No. 3927
	)	
Title: COMPOSITIONS AND METHODS FOR DETECTING WEST NILE VIRUS	)	Date: March 15, 2005

Attached hereto are:

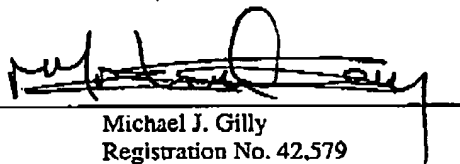
- 1) Transmittal Form (PTO/SB/21), 1 pg.;
- 2) Request for Extension of Time - 2 Mo. (PTO/SB/22), in duplicate, 2 pgs.;
- 3) Fee Transmittal (PTO/SB/17), in duplicate, 2 pgs.; and
- 4) Response to Restriction Requirement and Preliminary Amendment, 5 pgs.

**CERTIFICATE OF TRANSMISSION**

I hereby certify that this correspondence (and any referred to as attached) is being sent by facsimile to 703-872-9306 on the date indicated below to the Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia, 22313-1450.

Date: March 15, 2005

By:

  
Michael J. Gilly  
Registration No. 42,579  
Attorney for Applicants

PTO/SB/21 (09-04)

Approved for use through 07/31/2006, OMB 0851-0031

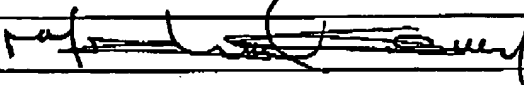
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	10/688,489	
	Filing Date	October 16, 2003	
	First Named Inventor	LINNEN et al.	
	Art Unit	1848	
	Examiner Name	LUCAS, Zachariah	
Total Number of Pages in This Submission	11	Attorney Docket Number	GP140-04.UT

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input checked="" type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Facsimile Cover Sheet
Remarks Response to Restriction Requirement and Preliminary Amendment		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	Gen-Probe Incorporated		
Signature			
Printed name	Michael J. Gilly		
Date	March 15, 2005	Reg. No.	42,579

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:			
Signature			
Typed or printed name	Michael J. Gilly	Date	March 15, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/17 (12-04)

Approved for use through 07/31/2008. OMB 0651-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Effective on 12/08/2004. Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818). <b>FEE TRANSMITTAL</b> <b>For FY 2005</b>		<b>Complete if Known</b> Application Number 10/688,489 Filing Date Oct. 16, 2003 First Named Inventor LINNEN et al. Examiner Name LUCAS, Zachariah Art Unit 1648 Attorney Docket No. GP140-04.UT	
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		RECEIVED CENTRAL FAX CENTER MAR 15 2005	
TOTAL AMOUNT OF PAYMENT (\$ 450.00)			

## METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): \_\_\_\_\_

☒ Deposit Account Deposit Account Number 07-0835 Deposit Account Name: Gen-Probe Incorporated

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee

☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☐ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

## FEE CALCULATION

## 1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

## 2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent	50	25
Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent	200	100
Multiple dependent claims	360	180

Total Claims \* Extra Claims Fee (\$)  
 13 - 20 or HP = 0 x 0 = 0.00

HP = highest number of total claims paid for, if greater than 20

Indep. Claims \* Extra Claims Fee (\$)  
 01 - 3 or HP = 0 x 0 = 0.00

HP = highest number of independent claims paid for, if greater than 3

Multiple Dependent Claims

Fee (\$)	Fee Paid (\$)
----------	---------------

\*Previously paid for  
82 total / 6 indep. claims

## 3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
	- 100 =	/ 50 =	(round up to a whole number) x	

## 4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other: Petition for Extension of Time - 2 Mo.

Fees Paid (\$)

\$450.00

SUBMITTED BY		
Signature	Registration No. (Attorney/Agent) 42,579	Telephone (858) 410-8657
Name (Print/Type) Michael J. Gilly		Date March 15, 2005

This collection of information is required by 37 CFR 1.135. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

COPY

Approved for use through 07/31/2006. OMB 0651-0032  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Effective on 12/09/2004.  
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

# **FEE TRANSMITTAL**

## **For FY 2005**

☐ Applicant claims small entity status. See 37 CFR 1.27

**TOTAL AMOUNT OF PAYMENT** (\$)**450.00**

### **Complete if Known**

Application Number	10/688,489
Filing Date	Oct. 16, 2003
First Named Inventor	LINNEN et al.
Examiner Name	LUCAS, Zachariah
Art Unit	1848
Attorney Docket No.	GP140-04.UT

### **METHOD OF PAYMENT (check all that apply)**

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): \_\_\_\_\_

☒ Deposit Account Deposit Account Number: 07-0835 Deposit Account Name: Gen-Probe Incorporated

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee

☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☐ Credit any overpayments

**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

### **FEE CALCULATION**

#### **1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

#### **2. EXCESS CLAIM FEES**

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent	50	25
Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent	200	100
Multiple dependent claims	360	180

Total Claims *	Extra Claims	Fee (\$)	Fee Paid (\$)	Multiple Dependent Claims	Fee (\$)	Fee Paid (\$)
13	- 20 or HP =	0	x 0 = 0.00			
HP = highest number of total claims paid for, if greater than 20						
Indep. Claims *	Extra Claims	Fee (\$)	Fee Paid (\$)			
01	- 3 or HP =	0	x 0 = 0.00			
HP = highest number of independent claims paid for, if greater than 3						

\*Previously paid for  
82 total / 6 indep. claims

#### **3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
	- 100 =	/ 50 =	(round up to a whole number) x	

#### **4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)

Other: Petition for Extension of Time - 2 Mo.

**Fees Paid (\$)**

**\$450.00**

#### **SUBMITTED BY**

Signature		Registration No. (Attorney/Agent) 42,579	Telephone (858) 410-8657
Name (Print/Type)	Michael J. Gilly		Date March 15, 2005

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.